



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/151162

PRELIMINARY RECITALS

Pursuant to a petition filed August 01, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on August 22, 2013, at Waukesha, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's PA request for physical therapy (PT) services.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Pamela Hoffman

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Waukesha County.

2. Petitioner's primary diagnosis is cerebral palsy. He has delayed fine motor skills, delayed self-care skills, decreased attention span, poor direction following, left side neglect, delayed sensory processing.
3. On May 28, 2013, the Petitioner's provider, HealthReach Rehabilitation, submitted a PA request for PT services one time/week for 12 weeks. The goals for the plan of care are:
 1. Petitioner will negotiate 4 stairs without use of rail alternating steps to improve gait efficiency and decrease risk of musculoskeletal injury.
 2. Petitioner will demonstrate increased strength for trunk and LE by noting the following a) achieve ½ kneeling from tall kneeling without use of hands and maintain x 10 seconds b) demonstrate 10 sit ups while on a physioball with therapist holding ball steady, and knees bent within 30 seconds c) step over a 10 inch object without falling 5/5 opportunities.
4. The Petitioner attends school in the Mukwonago School District and has an IEP for PT services during the school year.
5. On June 27, 2013, the agency denied the Petitioner's request for PT services.
6. On August 1, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Medical assistance covers physical therapy if the recipient obtains prior authorization after the first 35 visits. Wis. Admin. Code, § DHS 107.16(2)(b). When a PA is necessary, it is the provider's responsibility to justify the need for the service. Wis. Admin. Code, §DHS 107.02(3)(d)6. If the person receives therapy in school or from another private therapist, there must be documentation of why the additional therapy is needed and coordination between the therapists. Prior Authorization Guidelines Manual, p. 111.001.02, no. 3.

In reviewing a PA request, the agency must consider the general PA criteria found at §DHS 107.02(3) and the definition of "medical necessity" found at §DHS 101.03(96m). §DHS 101.03(96m) defines medical necessity in the following pertinent provisions:

"Medically necessary" means a medical assistance service under ch. HFS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury, or disability;

and

- (b) Meets the following standards:

...

2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider and the setting in which the service is provided;
3. Is appropriate with regard to generally accepted standards of medical practice; ...
6. Is not solely for the convenience of the recipient, the recipient's family or a provider; ...
8. ...[I]s cost effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and

9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

The agency interprets the code provisions to mean that a person must continue to improve for therapy to continue, specifically to increase the ability to do activities of daily living. In addition, at some point, the therapy program should be carried over to the home, without the need for professional intervention. Finally the MA program will not pay for therapy if the person already receives therapy from a different provider.

In this case, the agency notes that the first functional limitation to be addressed as part of the plan of care submitted with the PA relates to the Petitioner's difficulty with participating in play activities. The agency asserts there is no documentation to clarify what the Petitioner's difficulty is regarding this activity. It further notes that there is no goal related to play activities.

The agency notes the second limitation listed in the plan of care is difficulty negotiating curbs/stairs. The agency asserts that documentation provided demonstrates that the Petitioner has reached previous goals related to this limitation and there is no additional objective information to demonstrate how his abilities have changed.

The agency further notes that the third limitation listed in the plan of care relates to Petitioner's frequent falls. Again, the agency asserts the provider has not submitted objective information to support need for PT for this reason. Specifically, there is no information regarding where he is falling, what he is doing when falls occur, how often he is falling, and possible causes for falls. There is nothing to qualify or quantify the Petitioner's status regarding falls and nothing to indicate why it is anticipated that the Petitioner will regress over the summer in this regard without PT.

At the hearing, the Petitioner's mother testified that the Petitioner has problems with balance. He cannot be unattended because of the fall risk. He falls frequently but not as often as he used to. She stated that his core muscles need strengthening to improve his balance. With regard to stair climbing, he uses the wall and handrail to ascend and scoots on the stairs to descend.

I must agree with the agency that the provider has not met its burden to provide sufficient information to demonstrate that the PT services requested met the "medically necessary" criteria. Without additional objective information specifically regarding the Petitioner's limitations and abilities, it is not possible to determine if the services meet the criteria. Likewise, without more information, it is not possible to determine if the evaluation for PT was medically necessary.

Based on the evidence, I conclude the agency properly denied the request for PT services and evaluation for the Petitioner.

CONCLUSIONS OF LAW

The agency properly denied the request for PT services and evaluation for the Petitioner.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new

evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

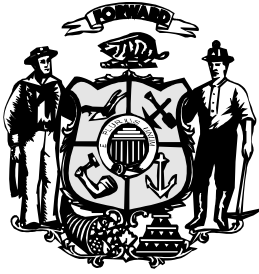
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 18th day of October, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 18, 2013.

Division of Health Care Access And Accountability